IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SECOND DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V.RAMULU

WRIT PETITION No.18270 of 1999

Between:

G.Krishnaiah, S/o Yellaiah,
R/o Kanchanpalli, Nalgonda District.

..... PETITIONER

AND

1 Hon'ble Labour Court-II, Rep by its Presiding Officer,
Chandravihar Building, 4th Floor,
M.J.Road, Hyderabad.
2 The Depot Manager,
A.P.S.R.T.C, Miryalguda, Nalgonda District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to call for the records from the 1st Respondent and issue an appropriate Writ, Order or Direction, particularly one in the nature of Writ of Certiorari and Quash the award passed by the 1st Respondent in I.D.No.135 of 1994, dt.26.6.1998, Published on 23.10.1998 as illegal, unjust, contrary to law and perverse; and grant all consequential benefits.

Counsel for the Petitioner: Mr. A.K.JAYAPRAKASH RAO

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: Mr. K. HARINATH

The Court made the following :

ORAL ORDER:

This Writ Petition is filed by the workman being aggrieved by the Award passed by the Labour Court III, Hyderabad in I.D.No.135 of 1994, dated 26-6-1998 wherein the petition filed by the workman-petitioner herein under Section 2-A(2) of the Industrial Disputes Act,1947 (for short 'the Act') was rejected without granting any relief.

It is the case of the petitioner that he was appointed as a Conductor in the respondent-Corporation in the year 1987. While so, he was illegally removed from service with effect from 1-8-1990. The appeal and review petitions filed by him were also rejected on 20-3-1991 and 2-7-1993. Having no other option, he filed the claim petition under Section 2-A(2) of the Act before the Labour Court-III, Hyderabad, which was taken on file as I.D.No.135 of 1994. The Labour Court also without properly appreciating the facts and circumstances of the case and also the evidence placed before it, dismissed the claim petition filed by him. Hence, this Writ Petition.

A detailed counter affidavit has been filed by the 2nd respondent denying the allegations made by the petitioner. It is *inter alia* asserted that the charges are grave in nature and they are proved in full. Therefore, the Award passed by the Labour Court is just and proper and does not call for interference of this Court. Further, the petitioner is not bereft of clean record of service. He committed various irregularities/misconducts and he suffered number of punishments. Therefore, the Writ Petition is liable to be dismissed.

I have given my earnest consideration to the submissions made by the learned counsel on either side and perused the entire material made available on record including the Award passed by the Labour Court.

At the outset, I am of the opinion that the Labour Court has not committed any irregularity or illegality calling for interference of this Court as to the finding that the petitioner was guilty of the charges framed against him. However, in view of the fact that the misconduct alleged was trivial in nature, since the only charge, which is serious, is being charge No.2 and the amount involved therein being Rs.1.20 ps. each against the seven passengers, who boarded the bus at ex-stage 9 and traveling to stage No.7. For this, the petitioner submitted an explanation stating that the passengers in question boarded the bus at Stage No.9 and bound for stage No.7. At stage No.9 as many as 19 passengers boarded the bus and he issued tickets to all of them, but the SR was not closed as there was a request stage between stages 9 and 8 and in the meanwhile the check had taken place. Since the SR itself was not closed, no *mala fides* can be attributed to him. There is no denial of the fact that the bus had not passed even one fare stage i.e. stage No.8. In fact, for a mofussil route, as per the contention of the learned counsel for the petitioner that one fare stage is permissible for issue of tickets before closing the SR. In this case, admittedly, the SR was not closed and the check had taken place at stage No.8. Further, in this case, admittedly, 19 passengers boarded at stage No.9 and the distance between stages 9 and 8 seems very less and therefore happening of such incidents are not unusual. In view of the same, though there is some past misconduct committed by the petitioner as enumerated in the counter affidavit, for the present misconduct, the petitioner does not deserve the punishment of removal from service imposed by the disciplinary authority as confirmed by the appellate and reviewing authorities. Therefore, I am of the view that the punishment of removal from service is disproportionate to that of the misconduct alleged against him. As such, the Award of the Labour Court is liable to be set aside and is accordingly set aside.

In the result, the Writ Petition is allowed directing the 2nd respondent to reinstate the petitioner with continuity service, but without any back wages and other attendant benefits. The service between 1-8-1990 till the date of reinstatement pursuant to this order shall be counted only for the purpose of retiral benefits and not for any other benefit. No order as to costs.

22-7-2005

prk

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this the Friday, Twenty Second day of July Two thousand and Five.

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ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Presiding Officer, Labour Court-II, Chandravihar Building, 4th Floor, M.J.Road, Hyderabad.
2 The Depot Manager, A.P.S.R.T.C, Miryalguda, Nalgonda District.

3 2 CCs to G.P. for Labour, High Court Buildings, Hyderabad (OPUC)

4 CD copies